

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF SOUTH DAKOTA

FILED

JUN 16 2000

THE UNITED STATES OF AMERICA, )  
Plaintiff, )  
v. )  
DAY COUNTY, SOUTH DAKOTA; DAY )  
COUNTY COMMISSION; LEONARD )  
NAESSIG, LINDA WALTERS, )  
ORVILLE HASELHORST, DARRYL )  
HILLDEBRANT, and DOUG SMEINS )  
each in his official )  
capacity as Day County )  
Commissioner; ENEMY SWIM )  
SANITARY DISTRICT; THOMAS )  
KNUTSON, DAVID BENIKE, and )  
RAYMOND FOSTER, each in his )  
official capacity as Enemy )  
Swim Sanitary District )  
Trustee, )  
Defendants. )  
)

  
Clerk

No. CV-99-1024

UNOPPOSED MOTION FOR ENTRY OF AMENDED CONSENT JUDGMENT AND DECREE  
BETWEEN THE UNITED STATES AND DAY COUNTY DEFENDANTS

Plaintiff United States respectfully requests this Court to enter the attached Consent Judgment and Decree. In support of this motion, the United States has attached a memorandum of points and authorities, and states the following:

1. On May 10, 1999, the United States filed a Complaint in this action pursuant to 42 U.S.C. 1971(a)(1), 1971(a)(2)(A), 1971(c), Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973 and 1973j(d), and 28 U.S.C. 2201, to enforce rights guaranteed by the Fourteenth and Fifteenth Amendments to the United States Constitution. The Complaint alleges that Native Americans have been

intentionally excluded from the Enemy Swim Sanitary District on the basis of race, thereby denying them the opportunity to vote and otherwise participate in the electoral process of the sanitary district. The United States named the following parties as defendants: Day County, the Day County Commission and its Commissioners, the Enemy Swim Sanitary District, and the sanitary district's trustees.

2. On May 10, 1999, the United States and Day County Defendants filed a consent decree with this Court for its approval.
3. On May 14, 1999, this Court entered the consent decree filed by the parties on May 10, which adjudged that "[t]he Enemy Swim Sanitary District as presently comprised violates 42 U.S.C. 1971(a)(1), 1971(a)(2)(A), Section 2 of the Voting Rights Act, 42 U.S.C. 1973, and the guarantees of the Fourteenth and Fifteenth Amendments of the United States Constitution."
4. The order further required "Day County Defendants, their successors in office, their agents and all persons acting in concert with them ... to approve incorporation of a sanitary district around and near Enemy Swim Lake and Campbell[s] Slough that includes Native Americans and Native American lands, including the Village of Enemy Swim."
5. The factual stipulations in paragraphs 1-14 of the Amended Consent Judgment and Decree are the same as the May 14, 1999 decree. An additional factual stipulation concerning the sanitary district's agreement to dissolve the district has

been added in paragraph 15 of the amended decree.

6. The relief ordered in paragraphs 1-3 and 6-7 of the Amended Consent Judgment and Decree are identical to the May 14, 1999 decree. Two additional provisions addressing the incorporation of the new sanitary district are included in paragraphs 4-5 of the amended decree.
7. The United States is authorized to represent that the Day County Defendants support the entry of the attached Consent Judgment and Decree.

WHEREFORE, the United States respectfully requests that this unopposed motion be granted.

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